

To: Lenny Grossman/R2/USEPA/US@EPA[]
Cc: Lisa Garcia/DC/USEPA/US@EPA; Ruth Santiago [rstgo2@gmail.com]; uth Santiago [rstgo2@gmail.com]
From: Richard Webster <rwebster@publicjustice.net>
Sent: Wed 9/26/2012 6:17:59 PM
Subject: FW: Citizens Group Poised to Sue AES Corp. for Illegally Dumping Toxic Waste in Local Residential Areas Unless Demands are Met
[20120926 Final AES Notice Letter with Appendicies \(2 Mb\).pdf](#)
rwebster@publicjustice.net
dmathis@publicjustice.net
[Click here](#)
[West Virginia](#)
[Pennsylvania](#)
[Public Justice](#)
publicjustice.net/
twitter.com/public_justice
facebook.com/publicjustice
[image003.jpg](#)

Lenny:

Today we sent the attached notice letter to AES about the situation in Guayama, Puerto Rico. Your official copy is in the mail, but I want to suggest directly that its time EPA puts a stop to dangerous waste disposal practices that the government of the Dominican Republic stamped out years ago through litigation. If you would like to discuss the matter further, please feel free to call me anytime.

Richard

NEWS RELEASE

For Immediate Release

September 26, 2012

Contact: Richard Webster at (202) 630-5708 or rwebster@publicjustice.net

Ruth Santiago at (787) 312-2223

Deborah Mathis at (202) 797-8600, Ext. 246 or dmathis@publicjustice.net

Citizens Group Poised to Sue Energy Giant AES Corporation for Illegally Dumping Toxic Waste in Local Residential Areas Unless Demands Are Met

A group of Puerto Rican citizens says it will take AES Corporation to federal court for illegally dumping highly toxic waste from its Guayama coal-fired power plant unless the energy giant meets the group's demands, which include a call for an end to AES' illicit disposal practices.

Public Justice, the national public interest law firm based in Washington, D.C., and Salinas attorney Ruth Santiago sent a Notice of Intent to Sue letter to AES on Wednesday, enumerating the demands of the Comité Dialogo Ambiental, Inc. (CDA), a group of concerned citizens from Guayama and Salinas. The group says AES' practice of dumping carcinogenic coal ash in local residential areas poses an "imminent and substantial endangerment" to public health and the environment.

The waste at the sites contains carcinogenic heavy metals, radioactive isotopes and hexavalent chromium—all cancer-causing substances highly dangerous to humans. It also contains high levels of boron, a common constituent of coal ash that is harmful to the environment. Despite these hazards, AES provides the waste to local contractors for use as fill in road projects and housing developments and advertises that it can be used for agricultural purposes. None of the places where the waste has been dumped are designed to prevent the waste from coming into contact with people or the environment.

"AES tried dumping its coal ash in the Dominican Republic, but the government there sued to block that disposal route," explained Public Justice Power-Cotchett Attorney Richard Webster. "After that, AES took the cheap and easy route and started dumping this carcinogenic waste in Puerto Rico without any regard for the health of the local people or their environment."

When the Guayama plant opened in 2002, Puerto Rican officials required AES to dispose of the coal ash waste outside the country. AES hired a contractor to transport thousands of tons of coal ash transported to the Dominican Republic, where it was dumped at the Arroyo Barril port in Samaná Province. The port is close to people's homes, but AES insisted the waste was not harmful and could actually be useful as fill for construction projects.

In 2005, the government of the Dominican Republic sued AES, saying the coal ash had polluted the environment and harmed residents' health. According to the suit, the waste contained unsafe levels of cancer-causing heavy metals and radioactive materials.

That case settled two years later for \$6 million and the Dominican government agreed to drop its lawsuit against AES.

Since then, AES has been dumping the coal ash in southeastern Puerto Rico, where whole neighborhoods have been built atop the waste. AES calls the waste "Agremax," a mixture of fly ash, bottom ash and water that AES claims can be used beneficially as fill for construction projects – a "smokescreen to justify disposal of the waste without proper controls," according to CDA's attorneys.

"Residents of Salinas and Guayama warned that it would contaminate the only source of potable water for tens of thousands of people who rely on the South Coast Aquifer," said Santiago. "Only now that the coal ash has been dumped at dozens of sites above the groundwater source and is contaminating rivers and streams in southeastern Puerto Rico have local municipal governments taken action to ban the use of the AES waste."

Underlying CDA's letter to AES, which was copied to the Environmental Protection Agency, are four demands:

- AES should legally dispose of the waste outside of Puerto Rico, in accordance with its original licensing agreement for the plant;
- AES should be barred from any further application of coal ash waste on land in Puerto Rico;
- The company should set up an independent fund to cover the costs of sampling and monitoring groundwater, surface water bodies, the airshed and exposed soils; and
- AES should remove the existing waste that is causing a hazard and dispose of it legally.

The letter sent to AES executives in both Puerto Rico and at the corporation's Arlington, Va., headquarters, warned that "unless you remedy the violations detailed in this letter, Citizens intend to file suit in federal district court any time beginning ninety (90) days after the certified receipt of this letter."

[Click here to read the Notice of Intent to Sue and accompanying documents.](#)

Public Justice has successfully halted or restricted other illegal coal ash disposal operations in other parts of the U.S., most recently in West Virginia and Pennsylvania.

###

Public Justice is a national public interest law firm that fights injustice and holds corporate and government wrongdoers accountable.

Avi Kramer

Communications Coordinator

Public Justice Foundation

1825 K Street, NW Suite 200

Washington, DC 20006

(202) 797-8600 x240

publicjustice.net/

twitter.com/public_justice

facebook.com/publicjustice